

Exhibit “UU” to Amended Verified Petition

617.21

State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number: **NYS DEC No. 3-3342-00022/00005**

February 8, 2005

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The NYS Department of Environmental Conservation (DEC), as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Kings Hill Road Shale Mine

SEQR Status: Type I

Description of Action: Mehlon Trucking, Inc. proposes to operate a shale mine on an 18.1 acre site located within a 159.9 acre parcel on Kings Hill Road. A four acre portion of this 18.1 acre site had been mined for shale and previously permitted by the NYS Department of Environmental Conservation (DEC). Shale will be removed by ripping, drilling and blasting. It is estimated that approximately 820,000 cubic yards of material will be mined. Dry screening and crushing of material is proposed. Mining is anticipated to continue for 15 years.

Location: The site is located in northeastern Orange County in the Town of Montgomery north of Kings Hill Road and east of Plains Road.

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Reasons Supporting This Determination:

Cultural Resources: A comprehensive Phase I Archaeological Investigation was conducted for this property, including a literature review and field studies. No historic artifacts or features were encountered. The NYS Office of Parks, Recreation and Historic Preservation reviewed the December 2004 report prepared by Tracker Archaeology Services, Inc. for this investigation and has concluded that the project will have no impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

Visual Resources: State resource maps showing designated "scenic areas of statewide significance" were reviewed and no areas were identified within the project vicinity. The project will result in the removal of deciduous forest from approximately 14 acres of the proposed site. Portions of the mine may be visible from individual residences. However, the nearest residences to the site (500 feet) to the east are located below a crest of the mine site which will remain undisturbed and provide a visual screen. In addition, an undisturbed woodland buffer around the mine area will provide further visual screening for adjacent parcels. Upon completion of mining, reclamation of the site will restore vegetation.

Water Resources: There are no State-regulated freshwater wetlands or streams on the property. A stormwater runoff management plan has been prepared and meets State requirements for coverage under the State's SPDES General Permit for Industrial Activities. This plan demonstrates that stormwater quantity and quality can be managed and controlled.

Natural Resources: State resource maps have been reviewed and no significant habitat resource areas occur within the property or its immediate vicinity. There are no known threatened or endangered species. The project will eliminate a small area of deciduous forest, resulting in the displacement and/or loss of some common resident species.

Traffic: Mining operations will result in an average of six to twelve trucks per day entering and leaving the property. This small volume of traffic will not adversely impact area traffic flow. A new mine access road location will substantially improve site distance on Kings Hill Road to minimize safety concerns.

Mining Operations: Mineral excavation will require blasting on an infrequent basis - two days per month. Blasting will be done in accordance with federal regulations by a certified blaster. Impacts of blasting are not expected to affect adjoining properties due to the ability to design blasts based upon known scientific calculations applied to evaluate blasting impacts.

The mining operator has volunteered to conduct pre-blast surveys of nearby dwellings and structures along with other mitigation measures.

Dust will be controlled using proven methods such as watering of haul roads, re-vegetation of long-term stockpiles and minimizing exposed areas through concurrent reclamation.

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Noise levels have been evaluated and determined to result in expected, acceptable levels of 55db at the closest residences. Additional mitigation of noise levels can be implemented through proven methods such as berms if necessary. The undisturbed mature vegetation to be maintained around the mine will also provide noise mitigation.

For Further Information:

Contact Person: Alexander F. Ciesluk, Jr.

Address: 21 South Putt Corners Rd, New Paltz NY 12561-1620

Telephone Number: (845) 256-3014

A Copy of This Notice Sent to:

Supervisor, Town of Montgomery
Town of Montgomery Planning Board
L. Mehl, Mehlon Trucking
J. Raab, V. Doce, Assoc.
R. Martin

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